

JAN 03 2006**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT**

SUSAN MOSER,

Plaintiff - Appellant,

v.

TRANS-GENERAL LIFE & CASUALTY
GROUP INC., a corporation,

Defendant - Appellee.

No. 04-55051

D.C. No. CV-98-01715-DT

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Dickran M. Tevrizian, District Judge, Presiding

Argued and Submitted December 9, 2005
Pasadena, California

Before: BEEZER, HALL, and WARDLAW, Circuit Judges.

Susan Moser (“Moser”) appeals the district court’s entry of judgment in favor of Trans-General Life & Casualty Group Inc. (“Trans-General”) after a bench trial on Moser’s claim for long-term disability benefits. We affirm.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

Moser contends that the district court erred in applying the deferential abuse of discretion standard of review to the plan administrator's decision to deny benefits. We need not decide which standard of review is applicable because even under a *de novo* review, we conclude that the plan administrator's decision must be upheld.

For Moser to be eligible for long-term disability benefits beyond March 19, 1998, the plain language of the plan requires that she demonstrate that (1) she was totally disabled due to a physical cause on or before March 19, 1998 and (2) she was under the regular care of a physician at that time. It is not disputed that Moser was not under the regular care of a physician from March 1998 through January 2000. Trans-General properly denied Moser's application for long-term disability benefits beyond March 19, 1998.

AFFIRMED.